

ANDERSON KILL P.C.

Attorneys and Counselors at Law

1251 AVENUE OF THE AMERICAS ■ NEW YORK, NY 10020
TELEPHONE: 212-278-1000 ■ FAX: 212-278-1733
www.andersonkill.com

Jerry S. Goldman, Esq.
Jgoldman@andersonkill.com
212-278-1569

Via ECF

November 18, 2022

The Honorable George B. Daniels
U.S. District Judge
United States District Court
Southern District of New York
Daniel P. Moynihan U.S. Courthouse
500 Pearl Street
New York, NY 10007

The Honorable Sarah Netburn
U.S. Magistrate Judge
United States District Court
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square, Room 430
New York, NY 10007

Re: In re Terrorist Attacks on September 11, 2001, No. 03-MDL-1570 (GBD) (SN); *Estate of John P. O'Neill, Sr., et al. v. The Republic of Iraq, et al.*, 04-cv-1076 (GBD)(SN); Taliban Orders at ECF Nos. 7949, 8111, 8150, 8473, and 8695; and Motions for Liability and Damages Judgments at ECF Nos. 8455, 8459, 8528, 8568, 8589, 8595, 8745

Dear Judge Daniels and Judge Netburn:

Pursuant to the discussion at today's court conference, we write to request that the Court enter default judgments as to liability against the Taliban on behalf of all *O'Neill* Plaintiffs.

By way of background, this Court previously authorized undersigned counsel to add over 3,000 plaintiffs to the above-referenced action against the Taliban, stating that "[p]rior rulings, orders, and judgments entered in this case remain in effect as to all parties". *See* Orders, dated May 4, 2022, June 15, 2022, June 28, 2022, August 30, 2022, and October 31, 2022, ECF Nos. 7949, 8111, 8150, 8473, and 8695 (the "Orders"). This Court previously entered a judgment of liability as to the plaintiffs originally named in the Complaint. *See* Order, dated October 13, 2015, ECF No. 3067; *see also* ECF Nos. 3163, 3043-1. Undersigned counsel then moved the Court for default judgments as to liability and damages against the Taliban. *See* ECF Nos. 8455, 8459, 8528, 8568, 8589, 8595, 8745. In those judgment motions, undersigned counsel noted that "[i]n light of this Court's prior Orders, the motion for the extension of the liability judgments against the Taliban to the Additional *O'Neill* Plaintiffs may not be necessary." *See, e.g.*, ECF No. 8748 at p. 9, fn. 7.

During today's conference a proposal was offered for the Court by one group of plaintiffs to enter an order of attachment over the Da Afghanistan Bank assets, on behalf of all 9/11 plaintiffs who hold liability judgments against the Taliban to ensure "equal footing" for all

Anderson Kill P.C.

The Honorable George B. Daniels
The Honorable Sarah Netburn
November 18, 2022
Page 2

members of the 9/11 community with claims against the Taliban. I advised that based on this Court's prior orders, there could be some uncertainty as to whether entering such an attachment order would benefit the 3,000+ plaintiffs previously added to the *O'Neill* case against the Taliban.

In response, the proponents' counsel confirmed that they had no objection to the Court entering liability judgments against the Taliban immediately on behalf of all *O'Neill* Plaintiffs with pending claims to enable the potential use of an order of attachment to secure the assets while litigation continues. No objections were raised to this requested clarification at the hearing.

In light of the forgoing, all *O'Neill* Plaintiffs with pending claims against the Taliban respectfully request that the Court either clarify that its prior Orders extended the original *O'Neill* liability judgment, *see* ECF Nos. 3067, 3163, 3043-1, to all other *O'Neill* Plaintiffs with pending claims against the Taliban, *nunc pro tunc* to the date of the Orders, dated May 4, 2022, June 15, 2022, June 28, 2022, August 30, 2022, and October 31, 2022, ECF Nos. 7949, 8111, 8150, 8473, and 8695. Alternatively, we respectfully request that the Court extend the liability judgments already entered for the O'Neill family to the Additional *O'Neill* Plaintiffs with pending claims against the Taliban, *See* Fifth Amended First Consolidated Complaint, at ECF No. 8702, Appendix 1.

We thank the Court for its attention to this matter.

Respectfully submitted,

/s/ Jerry S. Goldman

Jerry S. Goldman, Esq.

Attorney for the Plaintiffs

cc: All MDL Counsel of Record (via ECF)